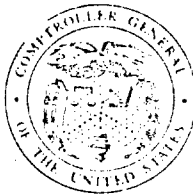


DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-185807

DATE: February 13, 1976

MATTER OF: Forbes International Moving & Storage Co., Ltd.

DIGEST:

Where protest is filed initially with procuring agency, subsequent protest filed with GAO more than 10 days after protester's receipt of notification of agency's denial of protest is untimely and will not be considered. Furthermore, protest involves matters concerning contracting officer's affirmative determination of responsibility, which are not considered by GAO in the absence of allegations of fraud on part of contracting officer.

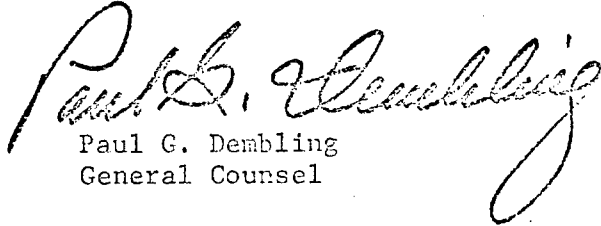
Forbes International Moving & Storage Co., Ltd. (Forbes), has protested against the Department of the Navy's award of a contract for the moving and storage of household goods for American personnel in Barbados, West Indies, to another firm.

Forbes originally protested to the Navy procuring activity, the Regional Procurement Department of the Naval Supply Center at Charleston, South Carolina. By letter dated December 18, 1975, and received by the protester on December 29, 1975, the contracting officer denied the protest. On December 31, 1975, Forbes sent a telex message to the contracting officer reiterating the basis for its protest. The contracting officer responded by telex message on January 2, 1976, again denying the protest and informing Forbes that if it wished to pursue the matter it could protest to this Office. Forbes' protest was filed (received) here on January 26, 1976.

The protest is untimely. Section 20.2(a) of our Bid Protest Procedures provides that "[i]f a protest has been filed initially with the contracting agency, any subsequent protest to the General Accounting Office filed within 10 days of formal notification of or actual or constructive knowledge of initial adverse agency action will be considered * * *." 40 Fed. Reg. 17979 (1975). Since Forbes clearly did not file its protest with this Office within the prescribed 10-day period, the protest must be regarded as untimely filed and not for consideration.

In addition, we point out that the protest allegations concern the adequacy of the contractor's facilities and the integrity of the contractor, both matters which relate to the contractor's responsibility. This Office does not review a contracting officer's affirmative determination of responsibility unless there is an allegation of fraud on the part of the contracting officer. Atlantic Maintenance Company, 54 Comp. Gen. 686 (1975), 75-1 CPD 108; Central Metal Products, Incorporated, 54 Comp. Gen. 66 (1974), 74-2 CPD 64. Therefore, since no such allegation has been made here, this matter would not be considered by our Office even if it had been timely filed.

Accordingly, we are closing our file on the matter.


Paul G. Dembling
General Counsel